

AN ORDINANCE

99897

DECLARING THAT THE GONZALES COUNTY CARRIZO AQUIFER PROJECT ("PROJECT") IS A NECESSARY PUBLIC PROJECT; FURTHER DECLARING THAT A PUBLIC NECESSITY EXISTS FOR THE ACQUISITION OF CERTAIN REAL PROPERTY INTERESTS INCLUDING BUT NOT LIMITED TO EASEMENT INTERESTS ACROSS, OVER, UPON AND UNDER CERTAIN PRIVATELY OWNED PROPERTIES BETWEEN A POINT LOCATED NEAR THE INTERSECTION OF COUNTY ROAD 123 AND FARM TO MARKET ROAD 77 IN GONZALES COUNTY AND THE ANDERSON PUMP STATION LOCATED NEAR THE INTERSECTION OF STATE HIGHWAY 151 AND LOOP 1604 IN BEXAR COUNTY, WHICH ARE LOCATED NEAR, WITHIN, ABUTTING AND/OR CONTIGUOUS TO THE ALIGNMENT FOR THE PROJECT (COLLECTIVELY THE "PROPERTY"), SUCH ALIGNMENT GENERALLY MEANDERING IN A SOUTH BY SOUTHWEST DIRECTION IN GONZALES AND WILSON COUNTIES TO THE TWIN OAKS WATER TREATMENT FACILITY IN SOUTH BEXAR COUNTY CONTINUING TO TRAVERSE IN A NORTH BY NORTHWEST DIRECTION IN BEXAR COUNTY TO THE LACKLAND PUMP STATION LOCATED NEAR OLD PEARSALL ROAD AND LOOP 410 CONTINUING TO ANDERSON PUMP STATION LOCATED NEAR THE INTERSECTION OF STATE HIGHWAY 151 AND LOOP 1604 (THE "PROJECT ALIGNMENT"); AUTHORIZING THE SAN ANTONIO WATER SYSTEM ("SAWS"), ITS DESIGNATED EMPLOYEES, AGENTS, ATTORNEYS AND/OR AUTHORIZED INDEPENDENT CONSULTANTS TO TAKE ALL LAWFUL ACTIONS INCLUDING WITHOUT LIMITATION LITIGATION, NECESSARY OR INCIDENTAL TO THE POWER OF EMINENT DOMAIN TO SURVEY, SPECIFY, CLARIFY, DEFINE, AND DETERMINE THE SUITABILITY OF REAL PROPERTY INTERESTS INCLUDING BUT NOT LIMITED TO EASEMENT INTERESTS ACROSS, OVER, UPON AND UNDER THE PROPERTY; RATIFYING AND DECLARING VALID ALL PRIOR ACTS DONE OR INITIATED BY SAWS, ITS ATTORNEYS, AGENTS, AND EMPLOYEES TO SURVEY, SPECIFY, CLARIFY, DEFINE AND DETERMINE THE SUITABILITY OF CERTAIN REAL PROPERTY FOR POTENTIAL FUTURE ACQUISITION RELATED TO THE PROJECT; PROVIDING FOR A SEVERABILITY CLAUSE AND ESTABLISHING AN EFFECTIVE DATE.

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WHEREAS, the public health, safety, and best interest of the City of San Antonio and its citizens require the continued construction, operation and maintenance of potable water, recycled water, and sewer facilities for the community; and

WHEREAS, the San Antonio Water System (the "System") is developing the Gonzales County Carrizo Aquifer Project (the "Project"); and

WHEREAS, it is necessary to develop, design, clarify, define, construct, operate and maintain the facilities for the Project; and

WHEREAS, it is necessary to acquire real property interest, including but not limited to easement interest across, over, upon, and under certain privately owned properties between a point located near the intersection of County Road 123 and Farm to Market Road 77 in Gonzales County and the Anderson Pump Station located near the intersection of State Highway 151 and Loop 1604 in Bexar County which are located near, within, abut, and/or are contiguous to the alignment for the Project, (collectively "the Property"), such alignment generally meandering in a south by southwest direction in Gonzalez and Wilson Counties to the Twin Oaks Water Treatment facility in south Bexar County continuing to traverse in a north by northwest direction in Bexar County to the Lackland Pump Station located near old Pearsall Road and Loop 410 continuing to the Anderson Pump Station located near the intersection of State highway 151 and Loop 1604; and

WHEREAS, on September 7, 2004 the San Antonio Water System Board of Trustees, pursuant to Board Resolution no. 04-356, requested that the San Antonio City Council declare the Gonzales County Carrizo Aquifer Project, (the "Project") to be a necessary public project; and

WHEREAS, the San Antonio Water System Board of Trustees further requested the City Council to authorize System staff, attorneys and consultants to take all necessary lawful action necessary or incidental to the power of eminent domain to survey, specify, clarify, define and determine the suitability of certain real property interests for acquisition in conjunction with the Project; and

WHEREAS, the System shall be returning to the City Council when and if it becomes necessary to acquire specific tracts of real property for the Project through condemnation proceedings; **NOW THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The Gonzales County Carrizo Aquifer Project is hereby declared a public necessity.

SECTION 2. A public necessity exists for the acquisition of real property interest, including but not limited to easement interests across, over, upon, and under certain privately owned property that are located, near, within, abut, and/or are contiguous to the alignment of the Project, such alignment generally meandering in a south by southwest direction in Gonzales and Wilson Counties to the Twin Oaks Water Treatment facility in

south Bexar County continuing to traverses in a north by northwest direction in Bexar County to the Lackland Pump Station located near Old Pearsall Road and Loop 410 continuing to the Anderson Pump Station located near the intersection of State Highway 151 and Loop 1604 between a point located near the intersection of County Road 123 nad Farm to market Road 77 in Gonzales County and the Anderson Pump Station. Such Project Alignment is more thoroughly detailed in Attachment I attached hereto and incorporated herein for all purposes.

SECTION 3. The San Antonio Water System, its employees, agents, attorneys, and authorized independent negotiators are hereby further authorized to take all lawful actions including without limitation litigation necessary or incidental to the power of eminent domain to survey, specify, clarify, define and determine the suitability of certain real property interests for potential acquisition in conjunction with the Project.

SECTION 4. Prior acts done or initiated by SAWS, its attorneys, agents, and employees clarifying, defining, and studying the suitability of certain real property for potential acquisition in conjunction with the Project are hereby ratified and declared valid.

SECTION 5. It is officially found, determined and declared that the meeting at which this Ordinance was adopted was open to the public, and that public notice of the time, place and subject matter of the public business to be conducted at such a meeting, including this Ordinance, was given to all as required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.

SECTION 6. If any part, section, paragraph, sentence, phrase or word of this Ordinance is, for any reason, held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, the remainder of this Ordinance shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid or ineffective.

SECTION 7. This Ordinance shall be effective immediately if it receives eight (8) affirmative votes otherwise it shall be effective on October 31, 2004.

PASSED AND APPROVED this 21st day of October, 2004.



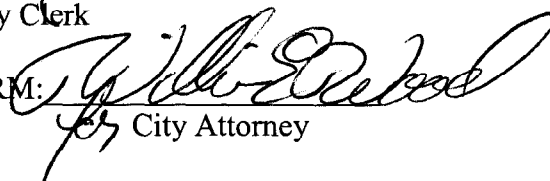
M A Y O R

EDWARD D. GARZA

ATTEST:


City Clerk

APPROVED AS TO FORM:


City Attorney